

(f) The SBA Administrator on a non-delegable basis may waive the requirement prohibiting a Participant from receiving sole source 8(a) contracts in excess of the dollar amount set forth in this section where the head of a procuring activity represents to the SBA Administrator that award of a sole source 8(a) contract to the Participant is needed to achieve significant interests of the Government.

**§ 124.520 Mentor/protege program.**

(a) *General.* The mentor/protege program is designed to encourage approved mentors to provide various forms of assistance to eligible Participants. This assistance may include technical and/or management assistance; financial assistance in the form of equity investments and/or loans; subcontracts; and/or assistance in performing prime contracts with the Government in the form of joint venture arrangements. The purpose of the mentor/protege relationship is to enhance the capabilities of the protege and to improve its ability to successfully compete for contracts.

(b) *Mentors.* Any concern that demonstrates a commitment and the ability to assist developing 8(a) Participants may act as a mentor and receive benefits as set forth in this section. This includes businesses that have graduated from the 8(a) BD program, firms that are in the transitional stage of program participation, other small businesses, and large businesses.

(1) In order to qualify as a mentor, a concern must demonstrate that it:

- (i) Possesses favorable financial health, including profitability for at least the last two years;
- (ii) Possesses good character;
- (iii) Does not appear on the federal list of debarred or suspended contractors; and

(iv) Can impart value to a protege firm due to lessons learned and practical experience gained because of the 8(a) BD program, or through its general knowledge of government contracting.

(2) Generally, a mentor will have no more than one protege at a time. However, the AA/8(a)BD may authorize a concern to mentor more than one protege at a time where the concern can demonstrate that the additional men-

tor/protege relationship will not adversely affect the development of either protege firm (e.g., the second firm cannot be a competitor of the first firm).

(3) In order to demonstrate its favorable financial health, a firm seeking to be a mentor must submit its federal tax returns for the last two years to SBA for review.

(4) Once approved, a mentor must annually certify that it continues to possess good character and a favorable financial position.

(c) *Proteges.* (1) In order to initially qualify as a protege firm, a Participant must:

- (i) Be in the developmental stage of program participation;
- (ii) Have never received an 8(a) contract; or
- (ii) Have a size that is less than half the size standard corresponding to its primary SIC code.

(2) Only firms that are in good standing in the 8(a) BD program (e.g., firms that do not have termination or suspension proceedings against them, and are up to date with all reporting requirements) may qualify as a protege.

(3) A protege firm may have only one mentor at a time.

(d) *Benefits.* (1) A mentor and protégé may joint venture as a small business for any government procurement, including procurements with a dollar value less than half the size standard corresponding to the assigned NAICS code and 8(a) sole source contracts, provided the protégé qualifies as small for the procurement and, for purposes of 8(a) sole source requirements, the protégé has not reached the dollar limit set forth in § 124.519.

(2) Notwithstanding the requirements set forth in §§ 124.105(g) and (h), in order to raise capital for the protege firm, the mentor may own an equity interest of up to 40% in the protege firm.

(3) Notwithstanding the mentor/protege relationship, a protege firm may qualify for other assistance as a small business, including SBA financial assistance.

(4) No determination of affiliation or control may be found between a protege firm and its mentor based on the

mentor/protege agreement or any assistance provided pursuant to the agreement.

(e) *Written agreement.* (1) The mentor and protege firms must enter a written agreement setting forth an assessment of the protege's needs and describing the assistance the mentor commits to provide to address those needs (e.g., management and/or technical assistance, loans and/or equity investments, cooperation on joint venture projects, or subcontracts under prime contracts being performed by the mentor). The agreement must also provide that the mentor will provide such assistance to the protege firm for at least one year.

(2) The written agreement must be approved by the AA/8(a)BD. The agreement will not be approved if SBA determines that the assistance to be provided is not sufficient to promote any real developmental gains to the protege, or if SBA determines that the agreement is merely a vehicle to enable a non-8(a) participant to receive 8(a) contracts.

(3) The agreement must provide that either the protege or the mentor may terminate the agreement with 30 days advance notice to the other party to the mentor/protege relationship and to SBA.

(4) SBA will review the mentor/protege relationship annually to determine whether to approve its continuation for another year.

(5) SBA must approve all changes to a mentor/protege agreement in advance.

(f) *Evaluating the mentor/protege relationship.* (1) In its annual business plan update required by § 124.403(a), the protege must report to SBA for the protege's preceding program year:

(i) All technical and/or management assistance provided by the mentor to the protege;

(ii) All loans to and/or equity investments made by the mentor in the protege;

(iii) All subcontracts awarded to the protege by the mentor, and the value of each subcontract;

(iv) All federal contracts awarded to the mentor/protege relationship as a joint venture (designating each as an 8(a), small business set aside, or unrestricted procurement), the value of

each contract, and the percentage of the contract performed and the percentage of revenue accruing to each party to the joint venture; and

(v) A narrative describing the success such assistance has had in addressing the developmental needs of the protege and addressing any problems encountered.

(2) The protege must annually certify to SBA whether there has been any change in the terms of the agreement.

(3) SBA will review the protege's report on the mentor/protege relationship as part of its annual review of the firm's business plan pursuant to § 124.403. SBA may decide not to approve continuation of the agreement if it finds that the mentor has not provided the assistance set forth in the mentor/protege agreement or that the assistance has not resulted in any material benefits or developmental gains to the protege.

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#### MISCELLANEOUS REPORTING REQUIREMENTS

##### **§ 124.601 What reports does SBA require concerning parties who assist Participants in obtaining federal contracts?**

(a) Each Participant must submit annually a written report to its assigned BOS that includes a listing of any agents, representatives, attorneys, accountants, consultants and other parties (other than employees) receiving fees, commissions, or compensation of any kind to assist such participant in obtaining a Federal contract. The listing must indicate the amount of compensation paid and a description of the activities performed for such compensation.

(b) Failure to submit the report is good cause for the initiation of a termination proceeding pursuant to §§ 124.303 and 124.304.

##### **§ 124.602 What kind of annual financial statement must a Participant submit to SBA?**

(a) Participants with gross annual receipts of more than \$5,000,000 must submit to SBA audited annual financial